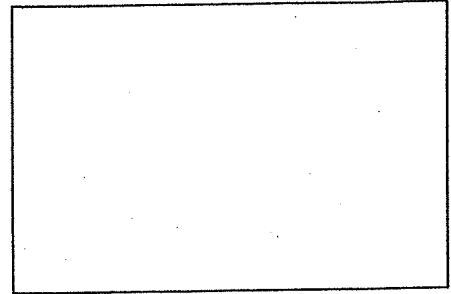


STATE OF CALIFORNIA – COUNTY OF VENTURA

SEARCH WARRANT AFFIDAVIT

(DISTRICT ATTORNEY REVIEW)



The attached warrant and affidavit have been reviewed for legal sufficiency by the undersigned Deputy District Attorney. The contents, if sworn to by the affiant, are legally sufficient to justify presenting the affidavit and warrant to a court for review. This document consists of 58 pages, including the search warrant, declaration or probable cause, and this review form, *and Sealing order*

Karen L. Wold
Deputy District Attorney (Printed Name)

[Signature]
Deputy District Attorney (Signature)

8-13-10
Date

[Handwritten initials]

YOU ARE THEREFORE COMMANDED TO SEARCH:

Location #1:

Oxnard City Hall

300 West 3rd Street

Oxnard, California

//

The location known as Oxnard City Hall is located at 300 West 3rd Street, Oxnard, California. Oxnard City Hall is located in the County of Ventura and is described as a multi-story structure. The dark colored numbers and words "300 City of Oxnard" are affixed to the buildings exterior near the building's main entrance.

The search is to include all offices, rooms, safes, locked boxes, files, desks, filing cabinets, storage facilities, private offices and other parts therein, storage areas, trash containers of any kind located thereon or about the premises in which the property sought by this warrant may be reasonably be found. The search is also to include computer networking servers located on the second floor in the Information Technology Division.

For the time period from January 1, 2005 to the date this search warrant is signed.

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1 **YOU ARE THEREFORE COMMANDED TO SEARCH:**

2 //

3 **Location #2:**

4 City of Oxnard Civic Center

5 305 West 3rd Street

6 Oxnard, California

7 //

8 The location known as City of Oxnard Civic Center is located at 305 West 3rd Street,
9 Oxnard California. The City of Oxnard Civic Center is located in the County of Ventura
10 and is described as a multi-story structure. The dark colored numbers "305" are affixed
11 to the buildings exterior above the building's main entrance.

12 //

13 //

14 The search is to include all offices, rooms, safes, locked boxes, files, desks, filing
15 cabinets, storage facilities, private offices and other parts therein, storage areas, trash
16 containers of any kind located thereon or about the premises in which the property
17 sought by this warrant may be reasonably be found.

18 //

19 **For the time period from January 1, 2005 to the date this search warrant is signed.**

20 //

1 **FOR THE FOLLOWING PROPERTY:**

2 The term "correspondence" and "documents" as used below for the purpose of
3 this search warrant will have the same meaning as "writings" including email
4 communication as that term is defined in California Evidence Code § 250:

- 5 1. Any and all correspondence, memorandum, notes and/or documentation by
6 and between any employee, representative or other city personnel with
7 Kennedy Jenks Company during 2005-the present;
- 8 2. Any and all correspondence, memorandum, notes and/or documentation by
9 Kennedy Jenks Company with any employee, representative or other city
10 personnel during 2005 through the present, including, but not limited to any
11 documents provided by Kennedy Jenks Company;
- 12 3. Any and all correspondence, memorandum, notes and/or documentation by
13 and between any employee, representative or other city personnel with
14 Emma Corporation during 2005-the present;
- 15 4. Any and all correspondence, memorandum, notes and/or documentation by
16 Emma Corporation with any employee, representative or other city personnel
17 during 2005 through the present, including but not limited to any documents
18 provided by Emma Corporation;
- 19 5. Any and all contracts, correspondence, memorandum, notes and/or
20 documentation by and between any employee, representative and/or other
21 city personnel with De La Rosa Company during 2005-the present;
- 22 6. Any and all contracts, correspondence, memorandum, notes and/or
23 documentation by De La Rosa Company with any employee representative or
24 other city personnel during 2005 through the present, including but not
25 limited to any documents provided by De La Rosa Company;
- 26 7. Any and all correspondence, memorandum, notes and/or documentation by
27 and between any employee, representative or other city personnel with JVW
28 Communications during 2005-the present;

- 1 8. Any and all correspondence, memorandum, notes and/or documentation by
2 JVW Communications with any employee, representative or other city
3 personnel during 2005 through the present, including, but not limited to, any
4 documents provided by JVW Communications;
- 5 9. Any and all correspondence, memorandum, notes and/or documentation by
6 and between any employee, representative or other city personnel with MSW
7 Engineering Firm during 2005-the present;
- 8 10. Any and all correspondence, memorandum, notes and/or documentation by
9 MSW Engineering Firm with any employee, representative or other city
10 personnel during 2005 through the present, including, but not limited to, any
11 documents provided by MSW Engineering Firm;
- 12 11. Any and all correspondence, memorandum, notes and/or documentation by
13 and between any employee, representative or other city personnel with Black
14 & Veatch during 2005-the present;
- 15 12. Any and all correspondence, memorandum, notes and/or documentation by
16 Black & Veatch with any employee, representative or other city personnel
17 during 2005 through the present, including, but not limited to, any documents
18 provided by Black & Veatch;
- 19 13. Any and all correspondence, memorandum, notes and/or documentation by
20 and between any employee, representative or other city personnel with
21 Mainstreet Architects & Planners during 2005-the present;
- 22 14. Any and all correspondence, memorandum, notes and/or documentation by
23 Mainstreet Architects & Planners with any employee, representative or other
24 city personnel during 2005 through the present, including, but not limited to,
25 any documents provided by Mainstreet Architects & Planners;
- 26 15. Any and all correspondence, memorandum, notes and/or documentation by
27 and between any employee, representative or other city personnel with
28 Prousys during 2005-the present;

- 1 16. Any and all correspondence, memorandum, notes and/or documentation by
2 Prousys with any employee, representative or other city personnel during
3 2005 through the present, including, but not limited to, any documents
4 provided by Prousys;
- 5 17. Any and all correspondence, memorandum, notes and/or documentation by
6 and between any employee, representative or other city personnel with
7 Consolidated Electrical Distributors during 2005-the present;
- 8 18. Any and all correspondence, memorandum, notes and/or documentation by
9 Consolidated Electrical Distributors with any employee, representative or
10 other city personnel during 2005 through the present, including, but not
11 limited to, any documents provided by Consolidated Electrical Distributors;
- 12 19. Any and all correspondence, memorandum, notes and/or documentation by
13 and between any employee, representative or other city personnel with
14 Rockwell Automation during 2005-the present;
- 15 20. Any and all correspondence, memorandum, notes and/or documentation by
16 Rockwell Automation with any employee, representative or other city
17 personnel during 2005 through the present, including, but not limited to, any
18 documents provided by Rockwell Automation;
- 19 21. Any and all correspondence, memorandum, notes and/or documentation by
20 and between any employee, representative or other city personnel with
21 Rawlings Mechanical during 2005-the present;
- 22 22. Any and all correspondence, memorandum, notes and/or documentation by
23 Rawlings Mechanical with any employee, representative or other city
24 personnel during 2005 through the present, including, but not limited to, any
25 documents provided by Rawlings Mechanical;
- 26 23. Any and all correspondence, memorandum, notes and/or documentation by
27 and between any employee, representative or other city personnel with Z-
28 Pipeline during 2005-the present;

- 1 24. Any and all correspondence, memorandum, notes and/or documentation by
2 Z-Pipeline during with any employee, representative or other city personnel
3 during 2005 through the present, including, but not limited to, any documents
4 provided by Z-Pipeline during;
- 5 25. Any and all correspondence, memorandum, notes and/or documentation by
6 and between any employee, representative or other city personnel with
7 AEWT/Biwater during 2005-the present;
- 8 26. Any and all correspondence, memorandum, notes and/or documentation by
9 AEWT/Biwater with any employee, representative or other city personnel
10 during 2005 through the present, including, but not limited to, any documents
11 provided by AEWT/Biwater;
- 12 27. Any and all correspondence, memorandum, notes and/or documentation by
13 and between any employee, representative or other city personnel with
14 Herzog Wine Cellars during 2005-the present;
- 15 28. Any and all correspondence, memorandum, notes and/or documentation by
16 Herzog Wine Cellars with any employee, representative or other city
17 personnel during 2005 through the present, including, but not limited to, any
18 documents provided by Herzog Wine Cellars;
- 19 29. Any and all commemorative wine glasses supplied by Herzog Wine Cellars
20 from 2005-the present;
- 21 30. Any and all correspondence, memorandum, notes and/or documentation by
22 and between any employee, representative or other city personnel with
23 Bernardo's Flowers during 2005-the present;
- 24 31. Any and all correspondence, memorandum, notes and/or documentation by
25 Bernardo's Flowers with any employee, representative or other city
26 personnel during 2005 through the present, including, but not limited to, any
27 documents provided by Bernardo's Flowers;
- 28

- 1 32. Any and all correspondence, memorandum, notes and/or documentation by
2 and between any employee, representative or other city personnel with Fleur
3 De Lis Flower and Gifts during 2005-the present;
- 4 33. Any and all correspondence, memorandum, notes and/or documentation by
5 Fleur De Lis Flower and Gifts with any employee, representative or other
6 city personnel during 2005 through the present, including, but not limited to,
7 any documents provided by Fleur De Lis Flower and Gifts;
- 8 34. Any and all correspondence, memorandum, notes and/or documentation by
9 and between any vendor and/or contractor doing business with the City of
10 Oxnard during 2005-the present;
- 11 35. Any and all correspondence, memorandum, notes and/or documentation by
12 and between any City of Oxnard officer, elected officer, candidate for
13 elective city office, and/or employee required to file a Form 700 Statement of
14 Economic Interest regarding gifts received from or provided to any donor of
15 any gift as defined in Government Code section 82028 including but not
16 limited to tickets, passes, travel, lodging, meals, refreshments, and/or other
17 tangible or intangible things during 2005-the present;.
- 18 36. Copies of all change orders and associated original contracts from the
19 Oxnard Public Works Department from 2005-the present;
- 20 37. Any and all documents related to travel expenses and expense reports for
21 Public Works employees from 2005-the present;
- 22 38. Any and all agendas and minutes of city council meetings, including, but not
23 limited to, budget hearings, from 2005-the present;
- 24 39. Any and all policy and procedure manuals, fiscal manuals, bylaws, and
25 reimbursement schedules in effect from 2005-the present;
- 26 40. All credit card receipts and statements, monthly statements, and/or financial
27 statements, bank statements, check books, including but not limited to any
28 backup documentation, reports or justification for such expenses and expense

1 reports for all former and current city council members, City Manager
2 Edmund Sotelo, Assistant City Manager Karen Burnham, Finance Director
3 James Cameron, City Attorney Alan Holmberg, former City Council member
4 Tim Flynn, former Public Works Director Ken Ortega and former Public
5 Works Project Manager Juan Moreno 2005-the present;

6 41. Any and all training materials related to business expenses and/or
7 documentation of business expenses, including but not limited to expense
8 reports and per diem rates, in effect from 2005-the present;

9 42. Any and all documents related to travel expenses for current and former city
10 council members from 2005-the present;

11 43. Any and all reports pursuant to Government Code section 53232.3 regarding
12 city council expenses from 2005-the present;

13 44. Any and all documents related to reimbursements for expenses and expense
14 report forms including receipts incurred in the performance of official duties
15 by any past or current member of city council from 2005-the present;

16 45. Any and all documents related to travel expenses and expense report forms
17 and receipts for City Manager Ed Sotelo from 2005-the present;

18 46. Any and all documents related to transportation and lodging for all former
19 and current city council members, City Manager Edmund Sotelo, Assistant
20 City Manager Karen Burnham, Finance Director James Cameron, City
21 Attorney Alan Holmberg, former City Council member Tim Flynn, former
22 Public Works Director Ken Ortega and former Public Works Project
23 Manager Juan Moreno 2005-the present;

24 47. Any and all documents related to travel expenses and expense report forms
25 including receipts for City of Oxnard Finance Director James Cameron from
26 2005-the present;

27 48. Ethics and/or conflict of interest training materials including but not limited
28 to related correspondence, memorandum, and/or attendance records for such

1 training for all former and current city council members, City Manager
2 Edmund Sotelo, Assistant City Manager Karen Burnham, Finance Director
3 James Cameron, City Attorney Alan Holmberg, former City Council member
4 Tim Flynn, former Public Works Director Ken Ortega and former Public
5 Works Project Manager Juan Moreno 2005-the present;

6 49. Expenditure of public funds training materials and related correspondence
7 and memoranda for all former and current city council members, City
8 Manager Edmund Sotelo, Assistant City Manager Karen Burnham, Finance
9 Director James Cameron, City Attorney Alan Holmberg, former City Council
10 member Tim Flynn, former Public Works Director Ken Ortega and former
11 Public Works Project Manager Juan Moreno 2005-the present;

12 50. Original and copies of Form 700's from 2005-2010 for Mayor Tom Holden,
13 Mayor Pro Tem Andres Herrera, Councilman Dean Maulhardt,
14 Councilmember Irene Pinkard, City Manager Edmund Sotelo, Assistant City
15 Manager Karen Burnham, Finance Director James Cameron, City Attorney
16 Alan Holmberg, Former Councilman Tim Flynn, former Public Works
17 Director Ken Ortega and former Public Works Project Manager Juan
18 Moreno;

19 51. Any and all records relating to the Desalter celebration and/or GREAT
20 Program including, but not limited to, invitations, announcements, guest lists,
21 correspondence, memorandum, receipts, warrants, order forms, expenditure
22 logs and donation records;

23 52. Monthly check register and/or logs listing payments of City funds from
24 2005-the present;

25 53. Any and all travel records for City Council members, department managers
26 and supervisors from 2005 through the present, including Mayor Tom
27 Holden, Mayor Pro Tem Andres Herrera, Council Member Dean Maulhardt,
28 City Manager Edmund Sotelo, Assistant City Manager Karen Burnham,

1 Finance Director James Cameron, City Attorney Alan Holmberg, former City
2 Council member Tim Flynn, former Public Works Project Manager Juan
3 Moreno and/or their spouses or relatives;

4 54. Any and all correspondence, memorandum or documentation related to time
5 sheets and vacation requests for City Council members, department managers
6 and supervisors from 2005 through the present, including Mayor Tom
7 Holden, Mayor Pro Tem Andres Herrera, Council Member Dean Maulhardt,
8 City Manager Edmund Sotelo, Assistant City Manager Karen Burnham,
9 Finance Director James Cameron, City Attorney Alan Holmberg, former City
10 Council member Tim Flynn, former Public Works Project Manager Juan
11 Moreno;

12 55. Calendars and/or appointment books or ledgers for City Council members
13 and department managers and supervisors from 2005 through the present,
14 including Mayor Tom Holden, Mayor Pro Tem Andres Herrera, Council
15 Member Dean Maulhardt, Council Member Irene Pinkard, City Manager
16 Edmund Sotelo, Assistant City Manager Karen Burnham, Finance Director
17 James Cameron, former City Council Member Tim Flynn, Former Public
18 Works Director Ken Ortega and former Public Works Project Manager Juan
19 Moreno;

20 56. Any and all records relating to the personnel investigation of Juan Moreno
21 and/or Ken Ortega conducted by private investigators, excluding any
22 compelled statements;

23 57. Any and all records, reports, correspondence or memorandum related to any
24 forensic accountings performed by Mr. Hall, or other outside auditors, related
25 to the City of Oxnard from 2005-the present;

26 58. Any and all documentation regarding golf fees incurred by for City Council
27 members and department managers and supervisors from 2005 through the
28 present, including Mayor Tom Holden, Mayor Pro Tem Andres Herrera,

Council Member Dean Maulhardt, Council Member Irene Pinkard, City Manager Edmund Sotelo, Assistant City Manager Karen Burnham, Finance Director James Cameron, former City Council Member Tim Flynn, Former Public Works Director Ken Ortega and former Public Works Project Manager Juan Moreno;

59. Any and all city employee handbooks, policy and procedure manuals, and training manuals.

60. Any and all city Ordinances and/or Resolutions in effect from 2005-the present;

61. Any of the aforementioned evidence whether in documentary form or contained on electronic storage devices capable of storing electronic data, including, ~~but not limited to,~~ computers, servers, laptops, cellular phones, (including Blackberries, I-Phones, and Android based phones), Personal Data Assistants (PDA's), computer systems including central processing units; internal and peripheral storage devices such as fixed disks, external hard disks, floppy disk drives and diskettes, thumb drives, tape drives and tapes, optical storage devices or other memory storage devices; peripheral input/output devices such as keyboards, monitors, printers, mice, joysticks, light pens optical readers, writing pads, devices such as modems, software to run programs, printers and manuals for the operation of the Computer(s);

62. All writings and documents which tend to establish the identity of the person(s) in control of the computer and computer equipment. This is to include all computer data receipts, registration forms, canceled checks, warranty documents, purchase agreements, lease agreements, any computer logs, sign in sheets, notes, passwords or access codes; and

63. The affiant shall have the right to open, copy and examine, at a computer forensics facility, any files from the seized or searched aforementioned computer drives or other media.

1 AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the
2 courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to and
3 subscribed before me this 13th day of August 2010, at 1131 A.M.

4 Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

5
6
7 James P. Clouinger NIGHT SEARCH APPROVED: YES ☐ NO ☒
8 (SIGNATURE OF MAGISTRATE)

9
10 Judge of the Superior Court, Ventura Judicial District

11 //

12 **ORDER TO ALLOW CIVILIANS TO ASSIST IN SEARCH**

13 Good cause showing, civilian personnel assigned to the Southern California High Tech
14 Taskforce, who work under the direction of sworn peace officers, are allowed to assist in
15 the search of the computer requested in this search warrant per 1530 PC.

16 // James P. Clouinger
17 (SIGNATURE OF MAGISTRATE)

18 Judge of the Superior Court, Ventura Judicial District

19 //

20 **ORDER TO ALLOW SEARCH OF COMPUTER OFFSITE**

21 Good cause showing, the search of the computer requested in this search warrant is
22 allowed to take place at the Southern California High Tech Taskforce due to the
23 specialized tools and programs required to effectively complete the search.

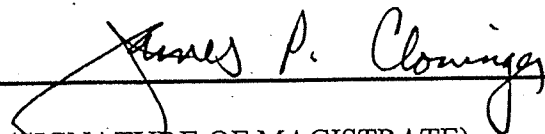
24 James P. Clouinger
25 (SIGNATURE OF MAGISTRATE)

26 Judge of the Superior Court, Ventura Judicial District

1 ORDER TO ALLOW FEDERAL AGENTS TO ASSIST IN SEARCH

2 WARRANT

3 Good cause showing, Federal Agents are allowed to assist in the search of the premises
4 and computers requested in this search warrant per 1530 PC.

5
6 

7 (SIGNATURE OF MAGISTRATE)

8 Judge of the Superior Court, Ventura Judicial District

SEALING ORDER

The Court has read and considered the search warrant affidavit submitted by Investigator Wayne Simmons of the Ventura County District Attorney's Office. The Court makes the following factual findings pursuant to California Rules of Court 243.1:

1. There exists an overriding interest in protecting the record that overcomes the right of public access to the record;
2. The overriding interest supports sealing the record;
3. A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;
4. The proposed sealing is narrowly tailored;
5. No less restrictive means exist to achieve the overriding interest.

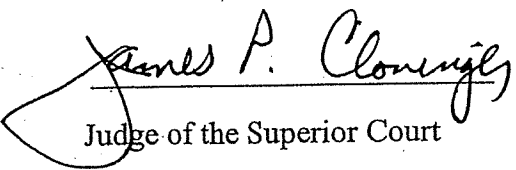
It is hereby ordered that the placement order and affidavit remain sealed by order of this court until such time as the Court directs otherwise. The said placement order and affidavit may not to be released without further order of this court.

This order has been requested by Senior Investigator Wayne Simmons's affidavit pursuant to Evidence Code section 1040, as well as California Rules of Court section 243.1.

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DATED: August 3, 2010


Judge of the Superior Court

County of Ventura

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Currently, I am assigned as the supervisor of the Administrative Unit, and have been for the past eight months. In my present assignment, I am responsible for conducting criminal investigations involving fraud and corruption committed by public officials and other persons who hold positions of public trust. These investigations include, but are not limited to, the falsification of public records and documents, the theft of public funds, grand theft, major fraud, bribery, money laundering, criminal conspiracies, and other crimes involving the abuse of power and authority.

I have learned how public official corruption and various types of fraud are perpetrated through my own investigations, by way of both formal and informal training, and from interviews with suspects, victims, and witnesses. Additionally, I have consulted with other peace officers and investigators and deputy district attorneys who investigate and prosecute these types of crimes. I have personally arrested and interviewed persons involved in various criminal activities including theft, fraud and associated crimes, and have become familiar with the manner in which various crimes are committed.

Based on my investigation in this matter, I believe probable cause exists to suspect

1 certain City of Oxnard officials of receiving personal gifts from firms that have secured
2 public works business contracts with the city, and failing to report these gifts in violation
3 of Government Code § 89503, California Penal Code §§ 118 and 424 (a), and
4 Government Code § 1090 and that the evidence of these violations will be found at
5 Oxnard City Hall, located at 300 West 3rd Street, Oxnard, California; and City of
6 Oxnard Civic Center, located at 305 West 3rd Street, Oxnard, California.

7 //

8 //

9 BACKGROUND

10 1. Statement of Economic Interest Form 700 and Public Gifts

11
12 A statement of Economic Interest (FORM 700) is a Fair Political Practices Commission
13 form that specified individuals must file. The Political Reform Act governed by
14 Government Code (hereinafter "G.C.") §§ 81000-91014 requires most state and local
15 government officials and employees to publicly disclose their personal assets and income.
16 The Fair Political Practices Commission (FPPC) is the state agency responsible for issuing
17 the Statement of Economic Interests Form 700. Schedule "D" requires reports of gifts
18 from non-family members (such as tickets to sporting or entertainment events). Schedule
19 "E" requires reports of travel payments from third parties (not the subject's employer).
20 The Form 700 is a public document. Form 700 must be filed annually for Elected State
21 Officers and State Board and Commission Members listed in G.C. § 87200.

22
23 Gifts received by most state and local officials, employees and candidates are subject to a
24 limit. For 2009-2010, the gift limit is \$420 from a single source during a calendar year
25 (the amount is adjusted every two years).

26 Under G.C. §87200, public officers designated to file a Statement of Economic Interest
27 must report any gift in an amount over \$50 from a single source on their annual Form 700.
28

1 A gift over \$50 must be reported, but there is no prohibition on official action by the
2 public officer. Gifts over \$420 are prohibited and the official cannot take official action
3 or make official decisions affecting the donor (§§ 87202, 87203, 87207).

4
5 A knowing or willful failure to file a Form 700 as required, or a knowing or willful failure
6 to include a gift over \$50 on the form can be prosecuted as a misdemeanor violation of
7 G.C. §91000.

8 The 700 Form must be verified. The instructions of the Form (Part 5) state:

9
10 "Complete the verification by signing the statement and entering the date
11 signed. When you sign your statement you are stating, under penalty of
12 perjury, that it is true and correct. Only the filer has the authority to sign
the statement. An unsigned statement is not considered filed and you may
be subject to late filing penalties."

13 The 700 Form verification states "I certify under penalty of perjury under the laws of the
14 State of California that the foregoing is true and correct." Since the Form 700 is filed
15 under penalty of perjury, failure to include a gift over \$50 on the Form also constitutes a
16 felony violation of Penal Code section 118, perjury.

17
18 A gift is defined in G.C. §82028 as: Any payment that confers a personal benefit on the
19 recipient, to the extent that consideration of equal or greater value is not received and
20 includes a rebate or discount in the price of anything of value unless the rebate or discount
21 is made in the regular course of business to members of the public without regard to
22 official status. Therefore, any financial benefit that the officer receives as a result of his
23 official position that is not available to the general public is considered a gift.

24 Travel is not reportable as a gift *if* provided by an outside source to the official for a
25 speech or panel participation at an event limited to the day before, day of and day after the
26 event. It must be reasonably related to a legislative or government purpose and includes
27 travel, lodging, admission and refreshments.

1 //

2
3 2. Conflicts of Interest

4 If the official decision affects a contract between the official's agency and the donor of the
5 gift, there may be a felony violation of G.C. §§1090 and 1097. G.C. § 1090 applies only
6 to contracts, sales and purchases in which a public official or employee has a financial
7 interest. Section 1090 is not part of the Political Reform Act. Financial interest includes
8 any financial interest that might interfere with a city officer's unqualified devotion to his
9 public duty. The interest may be direct or indirect and includes any monetary or
10 proprietary benefits. The interest broadly encompasses anything that would tie a public
11 official's fortunes to the existence of a public contract. G.C. § 1090 precludes any
12 involvement by a public official in the process that leads to a prohibited contract,
13 including preliminary matters. Pursuant to G.C. § 1097, a violation of 1090 is criminal if
14 done "knowingly and willfully."

15
16 //

17 3. Misappropriation of Public Funds

18
19 Any person charged with the receipt, safekeeping, transfer or disbursement of public
20 money, and any officer of a state, county, city, town or district who appropriates money to
21 his own use or the use of another without legal authority, loans money, profits from
22 money or makes use of money not authorized by law, who knowingly keeps false
23 accounts or makes a false entry, fraudulently alters, falsifies, conceals, destroys, willfully
24 omits or refuses to pay over money when demanded by proper warrant or authority, or
25 willfully omits to transfer money when required to do so is guilty of misappropriation of
26 public funds in violation of Penal Code section 424, a felony.

1 To "appropriate" means "to take exclusive possession of," "to set apart for or assign to a
2 particular purpose or use" or "to take or make use without authority or right." (Webster's
3 Collegiate Dict. (10th ed. 2000) p. 57, col. 2.) This section can be violated without
4 actually using the public money; it is enough if the official simply takes the money or sets
5 is aside without authority. The unauthorized use of public money is a violation of section
6 424(a)(2). The unauthorized appropriation of public money is a violation of section
7 424(a)(1) regardless of whether the money is ever actually used.

8
9 An expenditure of public funds is regulated solely by constitutional and statutory
10 provisions and must be confined to public purposes. Officials are not free to spend public
11 funds for any 'public purpose' they may choose, but must utilize appropriated funds in
12 accordance with the legislatively designated purpose. An expenditure of municipal funds
13 is permitted only...where it appears that the welfare of the community and its inhabitants
14 is involved and benefit results to the public

15
16 Penal Code section 426 defines public moneys as follows: "The phrase 'public moneys'
17 as used in Sections 424 and 425, includes all bonds and evidence of indebtedness, and all
18 moneys belonging to the state, or any city, county, town, district, or public agency therein,
19 and all moneys, bonds, and evidences of indebtedness received or held by state, county,
20 district, city, town, or public agency officers in their official capacity."

21
22 //

23 4. Contracts and Change Orders

24
25 A change order is a process used by many businesses and governmental entities,
26 particularly those that provide services to customers or public. Through a change order,
27 the business and the client can make alterations to an original business agreement. The
28 change order process is commonly used in the construction business.

1 When a construction business first places a bid on a project, it spells out the services and
2 materials to be provided. The original contract also outlines the design for the project and
3 the projected final outcome. If problems arise during the construction process or the client
4 changes his or her mind about what he or she wants to be done, a change order form must
5 be completed. The change order form details the new plan, including services, materials,
6 and designs that the client and the company have mutually agreed upon. The change order
7 form then becomes the valid contract by which the client and the construction company
8 must legally abide.

9
10 SYNOPSIS

11
12 There is probable cause to suspect that former City of Oxnard Public Works Director Ken
13 Ortega, City of Oxnard Manager Ed Sotelo, Oxnard Mayor Pro Tem Andres Herrera, and
14 City Financial Officer James Cameron, received personal gifts from firms who had
15 secured public works and other contracts with the City of Oxnard, and said city officials
16 failed to report or underreported these gifts on their Statement of Economic Interest Form
17 700 (hereinafter referred to as "Form 700"). Failure to report gifts over \$50 from a single
18 source on their Form 700 is a misdemeanor in violation of G.C. §§ 87202, 87203, 87207;
19 accepting gifts in excess of the limitations imposed by section 89503 is subject to
20 prosecution for a misdemeanor pursuant to G.C. 91000. These forms are signed under
21 penalty of perjury. By doing so willfully and knowingly, these officials committed
22 perjury, a violation of California Penal Code § 118, a felony.

23
24 I have probable cause to believe that city officials accepted gifts in excess of \$420 from a
25 single source over a given calendar year, and voted on or signed contracts related to the
26 donor of the gifts in violation of G.C. §§ 1090 and 1097, a felony.

1 I also have probable cause to believe that city officials misappropriated public funds by
2 moving and concealing public monies earmarked for one public works project to fund a
3 lavish party for invited guests, costing more than \$60,000 of public money, a violation of
4 California Penal Code § 424 (a), a felony.

5 INVESTIGATION

6 7 **I. Public Works Director Ken Ortega**

8
9 On June 18, 2010, I interviewed former Public Works Director Ken Ortega at the Bureau
10 of Investigation Headquarters. I informed Ortega that this was a non-custodial interview
11 and that he was free to leave at any time. Ortega admitted that during his tenure as Public
12 Works Director from 2005 to June 1, 2010, he received several gifts in the form of
13 lunches, dinners, and golf outings that were not reported on his Statement of Economic
14 Interest Form 700, as required by law.

15
16 Ortega said in October 2005, several members of the Oxnard City Council and City
17 Manager Ed Sotelo, received reportable gifts by attending a League of Cities conference
18 in San Francisco. The day before the event, several members of the city council and City
19 Manager Sotelo met with John Kim, an employee of the De La Rosa Company, an
20 investment banking firm. Kim hosted a golf outing at the Presidio Golf Course in San
21 Francisco, along with food and drinks. Based on the description of the outing by Ortega, I
22 believe that the value of the event exceeded \$50 and as such required to be reported as
23 gifts by all Form 700 employees. The attendees were City Manager Sotelo, Councilman
24 Dean Maulhardt, Mayor Tom Holden, Councilman Andres Herrera, and Councilman Tim
25 Flynn. Ortega did not believe then Councilman Flynn golfed at the event. Public Works
26 Director Ortega had to leave the event to return home and did not participate in the golf
27 outing. Ortega was aware of the schedule of events. However, this event should have
28

1 been reported on the Sotelo, Maulhardt, Holden and Herrera's individual Form 700s. I did
2 an internet search of the Presidio Golf Course and their non-resident green fees range
3 from \$69 to \$125.
4

5 According to documents I reviewed that were filed with the City of Oxnard, neither City
6 Manager Sotelo, Councilman Maulhardt, Mayor Holden, nor Councilman Herrera
7 reported these gifts on their respective Form 700's, which are signed under penalty of
8 perjury. I believe this conduct constitutes a violation of California Penal Code § 118 (a),
9 Perjury, a felony. Those records have not been received or reviewed for Tim Flynn, but
10 should be on file in the City Clerk's Office.
11

12 California Penal Code § 118 states, in relevant part:

13 Every person who . . . states as true any material matter which he or she
14 knows to be false, and every person who testifies, declares, deposes, or
15 certifies under penalty of perjury in any of the cases in which the
16 testimony, declarations, depositions, or certification is permitted by law of
the State of California under penalty of perjury and willfully states as true
any material matter which he or she knows to be false, is guilty of perjury.

17 Ortega also said in 2006, he accepted the gift of attending a Los Angeles Lakers
18 basketball game hosted by Jeff Savard, vice-president of Kennedy/Jenks, a local
19 engineering and consulting firm doing business with the City of Oxnard - Public Works
20 Department. He said City Councilman Herrera and Public Works Project Manager Juan
21 Moreno also attended the event. They were driven to the game and back home by
22 limousine, treated to refreshments at the game, and dinner after the game, all of which was
23 paid by Jeff Savard of Kennedy/Jenks. Based on information I obtained from the CEO of
24 Kennedy/Jenks, I believe that the value of this gift exceeded \$50 to each attendee.
25

26 Ortega admitted that he did not report these gifts on his Form 700 in 2007 as required.
27 Ortega said at the time of this event, Kennedy/Jenks had several business contracts in
28

1 place with the City of Oxnard. Ortega said at the time, he was in a position to approve,
2 and did approve, contracts with Kennedy/Jenks and other firms doing business with the
3 City of Oxnard. Based on other information that I obtained from Ortega, I believe Ortega
4 received in excess of \$420 in several calendar years from Kennedy/Jenks, and still signed
5 off on contracts with Kennedy/Jenks on behalf of the City of Oxnard. I believe that this
6 conduct constitutes a potential felony violation of G.C. §§ 1090 and 1097.

7
8 Ortega provided an example of how other city officials may have failed to report gifts on
9 their Form 700s. In November 2008, Ortega traveled to New York along with other
10 Oxnard city officials to receive a "bond buyers" award. Ortega, and several other
11 officials, took their spouses with them. Public Works Director Ortega believed that after
12 the event Ed De La Rosa and employee John Kim of the De La Rosa Company paid for
13 expensive dinners, including a dinner at a restaurant owned by Robert DeNiro, theater
14 tickets, valued at \$86 each, and extended hotel stays. Those participating in the extended
15 stay were City Manager Sotelo, his wife and step-daughter; Councilman Andres Herrera
16 and his wife; and City Finance Director James Cameron and his wife. This information
17 from Ortega was later corroborated by dinner receipts provided to me by the City,
18 showing John Kim of the De La Rosa Company paying for two expensive dinners. The
19 aggregate amount of these two receipts was \$2,500.

20
21 I reviewed copies of filed Form 700s related to the above subjects and the New York
22 event. My search revealed that City Manager Sotelo and Councilman Herrera failed to
23 report these gifts. In fact, the only city official who reported receiving any gifts in
24 connection with this New York event was City Finance Director James Cameron.
25 However, his reporting was limited to receiving only one \$45 theater ticket, and not the
26 dinners, additional theater tickets and the extended stay at the hotel

1 In addition, I reviewed a document provided by the city that showed the De La Rosa
2 Group purchased fourteen (14) theater tickets for a play in New York at \$86 each for the
3 same time period. This information tends to further corroborate Ortega's statements. Upon
4 reviewing the Form 700's for those officials who were treated to the dinners and theater
5 tickets and extended hotel stays, all either failed to report the gifts or underreported the
6 value of their gifts. I believe this conduct constitutes a violation of California Penal Code
7 § 118 (a), Perjury, a felony.

8
9 Ortega spoke of another instance when he and other officials failed to report gifts. He said
10 in December 2009, he went to a bond rating meeting at the Standard and Poor's Office in
11 San Francisco. He along with City Manager Ed Sotelo, Finance Director James Cameron
12 and Finance Manager Mike More were treated to an expensive dinner the night before the
13 presentation by John Kim of the De La Rosa Company. Ortega estimated his dinner
14 amounted to \$100 or more. Form 700s showing receipt of gifts in connection with this
15 event was required to be completed and filled with the City of Oxnard by April 1, 2010.
16 My search revealed that Ortega, City Manager Sotelo, and Finance Director James
17 Cameron failed to report said gifts on their Form 700s. I believe this conduct constitutes
18 a violation of California Penal Code § 118 (a), Perjury, a felony. The Form 700 for Mike
19 More has yet to be obtained and reviewed.

20
21 On one occasion within the past few months, Ortega said he received a call from City
22 Attorney Alan Holmberg who asked him for details about a hosted golf outing provided
23 by a vendor so he could complete his Form 700 for gifts received in 2009.

24
25 Ortega spoke of yet another instance when he failed to report a gift as required by law. He
26 said he received gifts from a Santa Barbara attorney, Ron Saperstein of the law firm of
27 Brownstein, Hyatt, Farber and Schreck. These gifts were in the form of tickets to a
28 sporting event. This firm did business with the Public Works Department and the City

1 Attorney. According to documents filed with the City of Oxnard, this gift was not
2 reported on Ortega's Form 700. I believe this conduct constitutes a violation of California
3 Penal Code § 118 (a), Perjury, a felony
4

5 Ortega said during the time he was employed by the City of Oxnard - Public Works
6 Department, dinners, lunches and golf outings hosted by firms doing business with the
7 city were common, as often as several times per week. Ortega said he was initially unsure
8 as to the reporting requirements, but later learned what the reporting requirements were
9 and that he had to report any gift above \$50.
10

11 Ortega admitted that he should have reported these gifts as required, but felt as though he
12 was being singled out by the media and city officials for things that City Manager Sotelo,
13 city councilmen Herrera and Mayor Holden were doing as well. Ortega believed that
14 failing to report gifts while in office was common practice between vendors and city
15 officials and to single him out was hypocritical. For this reason, Ortega was cooperative
16 and submitted to an interview.
17

18 I interviewed Ortega again on August 11, 2010. Ortega said at the Bond Buyer's awards
19 trip in 2008 he and his wife dined at the two restaurants and attended the play "Gypsy"
20 that was entirely hosted by John Kim of the De La Rosa Company. He again identified
21 Andres Herrera, Edmund Sotelo, James Cameron, Mike More and their family members
22 in attendance. He did say that Herrera and his wife did not attend the play because she
23 became ill after eating at one of the restaurants the day before.
24

25 He further discussed the League of Cities conference in San Francisco and stated that the
26 City of Oxnard group stayed at the Hilton. Even though he had to leave, he said that
27 Sotelo told him later about going to dinner at one of the hottest restaurants in town, Aqua,
28 and said that Sotelo also told him about another fancy restaurant for dinner that he

1 attended on a different night of the trip. Ortega said that he believed these events were
2 sponsored by John Kim of De La Rosa. He said that he also believed the golf excursion at
3 the Presidio was hosted by John Kim.

4
5 Ortega told me that Ed Sotelo had a saying to the effect – “I don’t want any record. Bring
6 cash.” He said that Sotelo made it clear that he preferred not to have receipts that might
7 be looked at later, and often instructed Ortega to get cash in advance so that the lower
8 level city employees did not pay or have the need for a record of these events.

9
10 //

11 12 **II. Oxnard City Manager Edmund Sotelo**

13
14 On July 22, 2010, I interviewed Oxnard City Manager Edmund Sotelo. He was
15 accompanied by Patricia Kinaga, a private attorney allegedly contracting with the City
16 Attorney hired by the City of Oxnard. Kinaga said she was present during the interview to
17 defend the City of Oxnard in a pending personnel action to which City Manager Sotelo
18 was not a subject. Sotelo agreed to give a statement.

19
20 Sotelo said Project Manager Juan Moreno had been terminated by the city for
21 inappropriate billing practices, primarily with the Emma Corporation, an engineering firm
22 that did business with the City of Oxnard-Public Works Department. He said Project
23 Manager Moreno was appealing his termination and was the subject of litigation. He
24 basically provided details that led to Moreno’s termination. When employed by the City
25 of Oxnard, Moreno’s immediate supervisor was Public Works Director Ken Ortega.

26
27 Sotelo said Public Works Director Ortega had questionable dealings with vendors doing
28 business with the City of Oxnard, including JVW Company, a public relations firm; MSW

1 Engineering; and the Kennedy/Jenks Group, an engineering and consulting firm. Sotelo
2 advised Public Works Director Ortega to stop any business dealings with JVW Company
3 because the city business contracts with them were too costly for the work provided.
4

5 Sotelo learned that Ortega continued doing business with them, "hiding" business
6 contracts within other business contracts with other firms. Sotelo said Ortega allowed
7 MSW Engineering to occupy a building in the city corporate yard to perform work on city
8 projects, which appeared to be inappropriate. Sotelo thought the relationship Ortega had
9 developed with MSW was inappropriate. They also determined some inappropriate
10 relationships that Ortega had with Kennedy/Jenks and their office manager Jeff Savard
11 involving gifts.
12

13 Sotelo said the City of Oxnard hired a private investigator, Chuck Hookstra, a former
14 Assistant Chief of Police, and another private investigation firm, Public Interest
15 Investigations, Inc., to investigate the activities of Public Works Project Manager Juan
16 Moreno. Apparently those individuals reported back their findings to Sotelo and the City
17 Attorney.
18

19 I questioned Sotelo about his conduct in relation to his receiving gifts and reporting those
20 gifts as required by law. Sotelo said he reported all gifts he received. He claimed the only
21 gift he received, which he said was reported on his Form 700, was a Dallas Cowboy
22 football jacket given to him by the football organization several years ago when the team
23 held their training camp in Oxnard.
24

25 Sotelo said he attended the event at the Presidio Golf Course before the League of Cities
26 conference, but elected not to elaborate on any details, such as who paid for the event, at
27 the direction and counsel of Ms. Kinaga. He also admitted to attending the Bond Buyer's
28 event in New York, but again declined to provide any details of the event at the direction

1 and counsel of Ms. Kinaga. I asked him about the dinner where John Kim was present in
2 San Francisco in 2009. Sotelo admitted that he had dinner with John Kim and others, and
3 stated that after dinner he went to the restroom. When he returned to the table, to his
4 surprise, the dinner and beverage bill had been paid. He did not know who paid for the
5 dinner. Based on the review of Sotelo's Form 700, he did not report these gifts, a
6 violation of California Penal Code § 118, perjury.

7
8 During the interview with Sotelo, he brought a document with him that I had previously
9 requested involving a business contract between Ortega and Kennedy/Jenks Group.
10 Sotelo and Ms. Kinaga were reluctant to provide said document claiming it might contain
11 a personnel matter, despite my claim that the document was relevant in the ongoing
12 criminal investigation. These documents contained information relating to a change order
13 to an existing City of Oxnard business contract, a letter from Jeff Savard and e-mail
14 communications between Jeff Savard and former Pubic Works Director Ortega. I
15 subsequently determined that these documents were the same documents Assistant City
16 Manager Karen Burnham and City Manager Sotelo told Oxnard Chief of Police John
17 Crombach that they would provide to law enforcement.

18
19 The documents were only turned over after Ms. Kinaga received a request on District
20 Attorney Letterhead for all correspondence with Kennedy Jenks and any outside
21 consultants related to the expenditure of contract funds during 2009-2010.

22
23 //

24
25 **III. Police Chief John Crombach**

26
27 On July 22, 2010, Deputy Chief Investigator Glen Kitzmann interviewed Oxnard Police
28 Chief John Crombach. Deputy Chief Kitzmann relayed the following information to me

1 about the interview. Chief Crombach said he learned that former Public Works Director
2 Ortega had resigned approximate one month earlier and shortly after a Ventura Star article
3 was released alleging that Ortega had received unreported gifts.
4

5 According to Chief Crombach, City of Oxnard officials and city management staff
6 attended ethics training that discussed the reporting requirements for those who receive
7 gifts. Chief Crombach believed the Human Resources Department would retain those
8 training records.
9

10 Chief Crombach had a previous meeting with Assistant City Administrator Karen
11 Burnham and Sotelo in June or July of this year. During the meeting, Burnham told him
12 that there may have been some inappropriate business dealings between former Director
13 of Pubic Works Ken Ortega and the Kennedy/Jenks Group. These inappropriate business
14 dealings involve adjusted invoices, overbilling and money designated for certain projects
15 diverted to other things. One such diversion of public funds involved money diverted from
16 one project to fund a gala to celebrate the opening of the desalinization plant. Sotelo then
17 joined the conversation and confirmed the suspected inappropriate conduct of Ortega.
18

19 Chief Crombach told both Sotelo and Burnham that this case should be referred to the
20 District Attorney's Office. Burnham said the Kennedy/Jenks Group would forward those
21 documents to her and Sotelo. After a few weeks, Chief Crombach inquired as to whether
22 Burnham had received the documents and she said she had. Even though Burnham said
23 she would either provide Chief Crombach or the District Attorney's Office with the
24 documents, there was an unreasonable delay in providing them to law enforcement. The
25 documents in question were apparently the same documents Sotelo reluctantly turned over
26 during his interview on July 22, 2010.
27

28 //

1
2 **IV. Additional Documentation Provided By City**
3

4 On July 26, 2010, Glen Kitzmann, Deputy Chief Investigator of Special Operations,
5 provided another DA letter request for additional documentation from Mr. Sotelo, Ms.
6 Kinaga and City Attorney Alan Holmberg. The request sought correspondence with a
7 number of specific contractors from 2005-2010, as well as change orders, travel expenses
8 for public works employees and city council minutes. To date, very little documentation
9 has been provided, but Sotelo claims that more documents will be forthcoming on August
10 13, 2010.
11

12 On July 30, 2010, additional documents pursuant to the original request to Sotelo were
13 provided. These documents included a letter to De La Rosa that said in part:
14

15 **I am writing to follow up on our request for documents that De La Rosa may**
16 **have regarding the following gifts Kim said he gave to various Oxnard**
17 **employees:**

18 **- Dodger game tickets for James Cameron and Ken Ortega, possibly**
19 **sometime in 2009;**

20 **- Dodger game ticket for Mike Muro, possibly sometime in 2009;**

21 **- Dinner on the night of the "Bond Buyer Awards" in New York for Ed Sotelo**
22 **and his wife, Andres Herrera and his wife, Mike Muro and his wife, Ken**
23 **Ortega and his wife, and James Cameron;**

24 **- Theater tickets to a Broadway show in New York in 2008 for Ed Sotelo and**
25 **his wife, Ken Ortega and his wife, and possibly James Cameron;**

26 **- Dinner on the same night as the Broadway show for Ed Sotelo and his**
27 **wife, Ken Ortega and his wife, and possibly James Cameron.**

28 **-**
To the extent that it is possible, we would like documents that confirm the
following information for each gift:

- to whom the gift was given;**
- the date the gift was given;**
- the value of the gift.**

In addition, while we are grateful for Kim's participation in yesterday's interview, in the event that Kim failed to recall all the specifics accurately, we would also ask that you provide any documents that reflect any other gifts provided to Oxnard employees that Kim failed to recall yesterday

In addition to the foregoing, the City provided some documentation from De La Rosa that included the 12/3/08 dinner at Tribeca Grill (a true and correct copy below):

Service included. Thank you

CHECK # 120065 DATE 12/03/08
TABLE # 27 TIME 10:50PM

AM: Ana
Fax: 415-495-8864

-- A_DINNER : DINNER 2A --

ITEMS ORDERED	AMOUNT
1 11 Cru 2 Vinyde	45.00
1 14 Duckhorn rep05	100.00
3 FRENCH ONION	30.00
1 ARUGULA	13.00
1 DAILY SOUP	8.00
1 GREEN SALAD	8.00
3 ENDOIVE	36.00
1 CHEF SPEC	28.00
1 SCALLOPS	31.00
2 STRIP	78.00
1 CHICKEN	25.00
2 FILET	88.00
3 HALIBUT	90.00
1 SHORT RIB	28.00
2 SHRIMP entree	54.00
1 S-WHIP POTATO	8.00
1 S - AUTUMN VEG	7.00
1 DGL ESP	8.00
1 DECAF CAP	4.50
1 COFFEE	3.75
1 HOT TEA	3.00
1 HOT CHOC	5.00
3 LEMONADE	12.00
2 CREME BRULEE	18.00
2 ICE CREAM	18.00
1 BANANA TART	9.00
1 SCOOP	3.00
1 COOKIES	7.00
1 APPLE & PEAR	8.00
1 B&B PUDDING	8.00
1 19 Cayenne 08	150.00
2 KETEL 1	20.00
1 KETEL 1 UP	11.00

SUBTOTAL 843.25
TAX 79.00
Service 158.00
TOTAL DUE 1022.25
Total \$1,180.25

TRIBECA GRILL
375 GREENWICH STREET
NEW YORK, NEW YORK 10013
(212) 841-3800

INTERESTED IN A PRIVATE PARTY?
CALL (212) 841-3805

DATE 12/03/08 TIME 11:32PM
KID 8819000033201

TRIBECA GRILL

PLEASE SIGN AND LEAVE THE MERCHANT COPY
THE CUSTOMER COPY IS YOURS TO TAKE

MASTER XXXXXXXXXX1454 3
AUTH 078062 TBL 27 CHECK 158885
PRE-AUTH A_DINNER DINNER 2A

AMOUNT 943.25
TAX 79.00

SUBTOTAL \$ 1022.25
TIP \$...158.00
TOTAL \$...1180.25

SIGNATURE X. *J.K.*
KIM JOHN

CARDHOLDER WILL PAY CARD ISSUER ABOVE
AMOUNT PURSUANT TO CARDHOLDER AGREEMENT

MERCHANT COPY

That bill shows a dinner bill for \$1,180.25 and is signed by John Kim on his credit card. The items ordered include what appears to be three bottles of wine, appetizers, entrees and dessert.

The documentation also included a receipt for Theatre Direct International (a true and correct copy below):

Printed: 12/01/2008

By: cre



Customer Invoice

Order#: 510088

TO: Anna Yasinskaya
Anna Yasinskaya
101 Montgomery St.
San Francisco, CA 94104

Client#: 119887
Day: 415-495-8863
Eve:
Fax:
Email: ayasinskaya@sjdelarosa.com

Gypsy Thursday, December 04, 2008 EVE 08:00 PM

St. James Theatre - 246 West 44th Street - New York, NY 10036

Qty	Section	Price	B.O.	Fee	Serv	Chrg	Delivery	Total	Paid	Balance
14	ORCHESTRA TC #388003	86.25	2.00					1235.50	.00	1235.50
14	Tickets							1235.50		1235.50

PLEASE REMIT BALANCE OF \$ 1235.50 BY 12/01/08 OR SEATS MAY BE RELEASED.
For questions regarding this order, please call clayton at 212-307-2194.

Please return a copy of this INVOICE with your check or money order payable to: THEATRE DIRECT INTERNATIONAL 729 7th Avenue - 6th floor New York, NY 10019 Please do not send multiple checks or cash. PLEASE WRITE THE ORDER NUMBER ON YOUR CHECK	
If paying by credit card, please fill out the information below and fax to 212-817-9108: CC#: _____ exp. ____/____/____ Name on card: _____ X _____ Date: ____/____/____ Authorized signature I authorize Theatre Direct/Showtix and/or the theatre to charge the above amounts.	Please let us know how you want to receive your tickets: Mail tickets Shipped Via FedEx (Add \$8.00 to payment unless already added above) Hold tickets at Box Office to be picked up day of show.* *All Off-Broadway shows must select this option. *All non-U.S. addresses must select this option. Note: International clients, please consult with our office.

PLEASE NOTE: THIS IS A FINAL SALE!
(No Refunds or Exchanges)

729 7th Avenue - 6th floor - NY, NY - 10019 - Phone: 800-276-2392 - Fax: 212-817-9108

The receipt shows the purchase of 14 orchestra seats to the St. James Theatre in New York on 12/4/08 at a cost of \$86 per ticket.

//

//

The documentation further showed the dinner expense for the dinner at the Gotham Bar and Grill on 12/4/08 paid for by De La Rosa (a true and correct copy below):

Page 1 of 2

Check Report @ Gotham Bar and Grill

Server:	Button, Brad
Revenue Center:	Dining
Table Name:	Table 10
Cover Count:	0
Check #:	25049

Date: 12/06/2008
Meal Period: Dinner
Check Open: 6:49 PM
Check Closed: 7:28 PM

Item Number	Check #	20048	New Item	Cashier	QTY	Amount
14213			Lobster	4		\$120.00
10181			Open Feed	4		\$100.00
11159			New York Steak	3		\$110.00
14101			Open Water	3		\$60.00
3335			Class Mock 12 Hope Red	3		\$130.00
10250			Woods Veneer	3		\$20.00
10258			Decker	3		\$20.00
10272			Long	3		\$12.00
10662			Pure Black	3		\$12.00
101117			Crow Green	3		\$12.00
102519			East Indian Red Thin	3		\$13.00
101004			Almond	3		\$10.00
102524			Julip	3		\$5.00
103118			Chet Paper	2		\$7.00
105450			Pers Tins	2		\$7.00
105467			Capacitors	2		\$4.00
105414			Excel Copy	2		\$4.00
104423			Lubric	2		\$4.00
104456			Local Tins	2		\$3.00
105311			Turkey	2		\$3.00
10116			HighFood Shale	2		\$3.00
103020			Pink Vials	2		\$0.00
11020			Perpet	2		\$0.00
11077			Oil	2		\$0.00
12011			Choc Cakes	2		\$0.00
12349			Pig Darts	2		\$5.00
13314			Spices	2		\$0.00
13330			Ice Cream	1		\$0.00
20010			Unopened Unopened	2		\$0.00
20012			Unopened	2		\$0.00
20022			Unopened	4		\$0.00
20025			Unopened	2		\$0.00
20027			Unopened	2		\$0.00
20028			Unopened	2		\$0.00
20029			Unopened	2		\$0.00
20030			Unopened	2		\$0.00
20031			Unopened	2		\$0.00
20032			Unopened	2		\$0.00
20033			Unopened	2		\$0.00
20034			Unopened	2		\$0.00
20035			Unopened	2		\$0.00
20036			Unopened	2		\$0.00
20037			Unopened	2		\$0.00
20038			Unopened	2		\$0.00
20039			Unopened	2		\$0.00
20040			Unopened	2		\$0.00
20041			Unopened	2		\$0.00
20042			Unopened	2		\$0.00
20043			Unopened	2		\$0.00
20044			Unopened	2		\$0.00
20045			Unopened	2		\$0.00
20046			Unopened	2		\$0.00
20047			Unopened	2		\$0.00
20048			Unopened	2		\$0.00
20049			Unopened	2		\$0.00
20050			Unopened	2		\$0.00
20051			Unopened	2		\$0.00
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20064			Unopened	2		\$0.00
20065			Unopened	2		\$0.00
20066			Unopened	2		\$0.00
20067			Unopened	2		\$0.00
20068			Unopened	2		\$0.00
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20089			Unopened	2		\$0.00
20090			Unopened	2		\$0.00
20091			Unopened	2		\$0.00
20092			Unopened	2		\$0.00
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Check Details

Page 2 of 2

23101	Sale 1 (Charged MFD)	-1	\$3.00
23101	FOR * TABLE (Tax)	-2	\$6.00
23101	Open Food (Total)	-2	\$120.00
Total Item Sales:			\$1,206.50
Service Charge			
AUTO GRATUITY:			\$241.70
Total Service Charge:			\$241.70
Taxes			\$123.46
Direct Tips:			\$0.00
Total Amount Due:			\$1,571.66
Payments			
Master Card (Tom John):			\$1,571.66
Total Payments:			\$1,571.66

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Gotham Bar & Grill charg

The bill from the Gotham Bar and Grill totaled \$1,571.66. It included four lobster dinners (\$420), three New York steak dinners (\$315), and a variety of other food including

1 appetizers and dessert. The bill also includes a "Bloody Mary" and wine. The bill was
2 paid by John Kim on his Master Card.

3
4 I believe the "Mike Muro" referenced in the above documents is in fact "Mike More", the
5 Financial Services Manager for the city of Oxnard.

6
7 **IV. Assistant City Manager Karen Burnham**

8
9 On August 2, 2010 I interviewed Assistant City Manager Karen Burnham. Ms. Kinaga,
10 an attorney representing the City of Oxnard, also attended this interview. Ms. Burnham
11 was there voluntarily and free to leave at any time. Burnham said she has been in her
12 current position for thirteen (13) years. She said she was Ken Ortega's immediate
13 supervisor. Burnham noticed irregularities in some of his business contracts and change
14 orders throughout Ortega's tenure as the public works director; however, she never
15 addressed those deficiencies in his performance reviews. She said during a recent
16 personnel investigation of former employee Juan Moreno they uncovered potential
17 wrongdoing by Ortega. This investigation was conducted by Private Investigator Chuck
18 Hookstra and another investigative firm.

19
20 Burnham related her concern about a celebration in 2008 that was organized by Ortega to
21 commemorate the opening of the "Desal Plant." She claimed the celebration was "over the
22 top" with a catered dinner, wine, snacks and decorations. She claimed that the event was
23 so expensive and extravagant that she was concerned about how the event was funded.
24 She was initially told by Ortega that the event was funded by donations from firms doing
25 business with the City of Oxnard-Public Works Department. She later learned that the
26 event was funded with federal and city taxpayer dollars, and not by donations.

1 According to City of Oxnard documents, this event cost tax payers over \$67,000.
2 Approximately 300 invited guests attended the party, including Burnham, Sotelo and
3 members of the city council and Mayor Holden. None of these individuals who attended
4 the event claimed this event as a gift on their 2009 Form 700. I believe Ortega's conduct
5 constitutes a violation of California Penal Code § 424 (a), Misappropriation of Public
6 Funds, a felony.

7
8 California Penal Code § 424 (a) states:

9 (a) Each officer of this state, or of any county, city, town, or district of this
10 state, and every other person charged with the receipt, safekeeping,
11 transfer, or disbursement of public moneys, who either: (1) Without
12 authority of law, appropriates the same, or any portion thereof, to his or
13 her own use, or to the use of another; or, (2) Loans the same or any portion
14 thereof; makes any profit out of, or uses the same for any purpose not
15 authorized by law; or, (3) Knowingly keeps any false account, or makes
16 any false entry or erasure in any account of or relating to the same; or, (4)
17 Fraudulently alters, falsifies, conceals, destroys, or obliterates any
18 account; or, (5) Willfully refuses or omits to pay over, on demand, any
19 public moneys in his or her hands, upon the presentation of a draft, order,
20 or warrant drawn upon these moneys by competent authority; or, (6)
21 Willfully omits to transfer the same, when transfer is required by law; or,
22 (7) Willfully omits or refuses to pay over to any officer or person
23 authorized by law to receive the same, any money received by him or her
24 under any duty imposed by law so to pay over the same is punishable by
25 imprisonment in the state prison.

26 Burnham said as Assistant City Manager she approves Ed Sotelo and members of City
27 Council's travel requests. Burnham said she had never denied a travel request submitted
28 by Sotelo or members of city council. She said there are copies of the travel documents in
the City Manager's office and in the Finance Director's Office. She also said the City
Manager, Department heads, and members of city council have city issued credit cards to
be used for city business. She said there is a monthly "check register" retained by the
Finance Director that itemizes expenses incurred by city officials that she reviews
monthly. During the interview, she freely discussed performance issues relating to Juan

1 Moreno and Ken Ortega, but was reluctant to provide information regarding travel details
2 involving Sotelo or members of the city council.

3
4 During the meeting with Burnham, she advised that Ortega had two laptop computers and
5 that both had been "wiped," meaning that data was erased. She stated that the city's IT
6 people were working on recovering the data. When asked if the city had done a search of
7 their server to recover the data, Burnham indicated that no such search had yet been
8 performed. I believe that relevant information to the Desalter party, and to the failure to
9 report gifts, communications with contractors, and other evidence will be located on the
10 city server.

11
12 G.C. § 36514.5 allows city council members to be reimbursed for actual and necessary
13 expenses incurred in the performance of official duties. G.C. § 53232.2 requires an
14 agency, if it reimburses its members for actual and necessary expenses, to adopt a written
15 policy at a public meeting specifying the types of occurrence that qualify for
16 reimbursement. The written policy must specify the reasonable reimbursement rates for
17 expenses or the agency will be required to use the IRS rates for reimbursement. The
18 agency members are also required to use government and group rates for transportation
19 and lodging when available. Additionally, all expenses that do not fall within the written
20 policy or the IRS guidelines must be approved by the legislative body at a public meeting.
21 G.C. § 53232.2 requires the agency to provide expense report forms to be filed by
22 members being reimbursed. These reports are considered public records subject to
23 disclosure pursuant to the Public Records Act. To be reimbursed, the expense must: (1)
24 be an expense of a member of a city council; (2) be an 'actual' expense; (3) have been
25 incurred in the performance of official duties; and (4) be a 'necessary' expense.

26 Based on the information I have obtained during this investigation, I suspect that travel
27 expenses have been incurred by members of city council that were not necessary nor
28

1 incurred in the performance of an official duty. I am requesting credit card information,
2 expense report forms and other relevant documents in this regard.

3
4 On August 3, 2010, Burnham provided a document to this office in the form of a
5 confidential memorandum from Ed Sotelo to the Mayor (Tom Holden) and city council
6 members dated January 16, 2009 entitled "Great Program Dedication - Expenses." The
7 document discusses the cost of the Desalter party, minus the contribution of Herzog Wine
8 Cellars (wine, appetizers and commemorative wine glasses) and claims that the party was
9 financed by donations from: Black & Veatch (\$2,500); Mainstreet Architects & Planners
10 (\$2,500); Prousys (\$2,500); Consolidated Electrical Distributors (\$3,000); Rockwell
11 Automation (\$3,000); Kennedy/Jenks (\$4,000); Rawlings Mechanical (\$5,000); Z-
12 Pipeline (\$5,000); AEWT/Biwater (\$8,000); and Emma Construction Corporation
13 (\$12,000). The document indicates that floral arrangements (described to me by Burnham
14 as "Vegas Style") were donated by Bernardo's. Burnham said that she later learned that
15 the vendors did not donate to the party, and that the true source of the funding may have
16 been the change order by Kennedy/Jenks. She also said that she later learned that Fleur
17 De Lis Flower and Gifts donated or provided the flowers to the party. Based on this
18 information, I am seeking all contracts and related documents with these vendors.

19
20 On August 10, 2010 I had a brief telephone conversation with Ken Ortega. He said that
21 the grand opening celebration of the Desalt Plant was with the full knowledge of Ed
22 Sotelo, Karen Burnham and all members of city council. He said that he had to re-
23 schedule the event at least once at Sotelo's request because members of city council were
24 going to be out of town. He said that attendees on the guest list were reviewed by the city
25 manager's staff and suggestions as to who would attend were made. City Public
26 Information Officer Christina Aerland who is on Ed Sotelo's staff, was an active
27 participant in helping plan the event on a day- to- day basis. He also indicated that the
28 event was more upscale than normal because the initial indications were that the Arnold

1 Schwarzenegger, the Governor, was going to attend the event. The Governor later
2 changed plans and did not attend the event.

3
4 On June 26, 2010, Sotelo was provided a list of documents requested by the District
5 Attorney's Office relating to business contracts, travel and correspondence between city
6 officials and firms doing business with the City of Oxnard. Most of these documents
7 should be public records. Regardless, the City of Oxnard has been reluctant to provide
8 these requested items through the informal request process. Few responsive documents
9 have been provided by the city of Oxnard to date.

10
11 On August 10, 2010, I spoke with Burnham again regarding outstanding documentation.
12 To date, no additional documentation has been forthcoming. Burnham requested "key
13 words" to search their records to assist in locating documents.

14
15 **V. Keith London, President and CEO of Kennedy/Jenks**

16
17 On August 4, 2010, I interviewed Keith London, President and CEO of the
18 Kennedy/Jenks Group. He said Jeff Savard is his office manager at his Oxnard office.
19 Savard oversees operations in Ventura County. London said they have contracts with
20 several government agencies in Ventura County including the City of Oxnard. He said all
21 contracts and change orders may be retained in their San Francisco headquarters or on-site
22 in their Oxnard office.

23
24 London said giving gifts to businesses and members of governmental agencies in the form
25 of hosted dinners, lunches, golf outings and tickets to sporting events, are common
26 practices. According to London in 2006, he approved a complimentary limousine trip,
27 along with Lakers game tickets, for Oxnard officials and three others not connected to
28 Oxnard. The gift giving was proposed by Savard, and even though the limousine service

1 seemed to have a bad appearance, it was the most effective way to transport eight clients
2 to and from the basketball game. London recalled the cost for the Lakers game, limousine
3 and dinner was approximately \$2,300. London claimed that gift giving was not a quid pro
4 quo situation, but common practice to "keep [his] clients happy." These gifts were not
5 reported by Ortega or Herrera, a violation of California Penal Code § 118, perjury. It is
6 unknown whether Moreno claimed these gifts on his Form 700.

7
8 London said he was concerned about a change order between Ortega and Savard where
9 there was funding for an elaborate "gala" to celebrate the opening of the "Desal Plant." He
10 said he met with Karen Burnham, Ed Sotelo and a private investigator about the issue. He
11 seemed to indicate that if there was a diversion of money to fund this event, it was not the
12 responsibility of his company to justify the allocation of money, and that it was more
13 appropriate for the City of Oxnard to justifying this expenditure. In my opinion, the
14 diversion of money to fund this event is a misappropriation of public money, a felony, on
15 the part of all individuals who aided and abetted the diversion.

16
17 **VI. Jeff Savard of Kennedy/Jenks**

18
19 On August 11, 2010, I interviewed Jeff Savard of Kennedy/Jenks Group. Savard was the
20 office manager for the Oxnard Kennedy/Jenks Group. Savard admitted that he is a
21 personal friend of Ortega, and said that they were college roommates.

22
23 Savard also admitted that he had breakfast meetings about every other week and that these
24 breakfasts were mostly paid for by Kennedy Jenks. The breakfast included Savard and
25 Ortega, Juan Moreno and other public works employees (he identified Tony Emmert,
26 Project Manager by name).

1 Savard confirmed the fact that there was a Lakers game trip in 2006 that included a
2 limousine ride paid for by Kennedy/Jenks. He claimed that there was no dinner after the
3 game, and said that only Ortega and Moreno (along with their wives) were present. He
4 denied that Andres Herrera was there. He then stated that he might have confused this trip
5 with another trip he and Ortega took to a Laker game.

6
7 With regard to the Desalter/GREAT project party, Savard said that there was a lump-sum
8 contract paid to Kennedy/Jenks from the City of Oxnard. Ortega paid Kennedy/Jenks
9 \$30,000 in public funds over the agreed upon contract price of the project and Savard
10 believed this to be unusual but accepted the overpayment. Ortega later asked Savard to
11 "donate" money to the grand opening party, and he did that. Savard claims that when the
12 company writes up the original contracts, they include an administrative cost allowance to
13 cover certain expenses (including wining and dining of clients). He denied that there was
14 any change order to cover the cost of the party. He admitted "donating" \$4,000 to the
15 party at Ortega's request, even though it put him over budget for one particular project.
16 Savard felt that he and his firm did nothing illegal.

17 //

18 //

19 //

20 **VII. Andres Herrera, Pro Tem Mayor**

21 //

22 On August 12, 2010, I interviewed Andres Herrera, Pro Tem Mayor of the city of Oxnard.
23 Also present was Ted Oehninger of the Federal Bureau of Investigation (hereinafter
24 "FBI"). Herrera was there voluntarily and free to leave at any time. Herrera was advised
25 that the interview was being recorded. Herrera is currently employed 20 hours per week
26 working as an administrative assistant for Supervisor John Zaragoza and has held that
27 position since Zaragoza was elected to his current position in November of 2008. In
28 addition to those duties, Herrera is an elected Oxnard city council member and has been

1 since 2002. He was also elected for a single term in 1992, but then lost his bid for re-
2 election. In connection with his council position, Herrera sits on numerous committees
3 including the Finance Committee and Fiscal Policy Task Force.
4

5 Herrera admitted that on one occasion he took a limousine to a Lakers' game with Ken
6 Ortega. He did not know who paid for the limousine and did not know who paid for the
7 event tickets. He admitted that they went to dinner after the event, but denied that he ate,
8 instead claiming he had two beers and that he paid for those himself. He did not declare
9 the tickets or limousine on his Form 700.

10 //

11 Herrera said that as an elected official, council is the "boss" of City Manager Ed Sotelo.

12 Herrera said that in his capacity as a councilmember, he has been required to travel to
13 various functions to represent the City of Oxnard. He admitted going to New York in
14 2008 with Ed Sotelo and his wife, Ken Ortega and his wife, James Cameron and his wife
15 and Michael More and his wife for the "Bond Buyer Awards." Herrera indicated that the
16 city was scheduled to receive an award for "creative financing." While there, Herrera and
17 his wife stayed at the Times Square Hilton. Herrera said that they arrived the day before
18 the event and left the day after. He believed that the City of Oxnard paid his fare to NY
19 and his hotel. He paid for his wife to travel.

20 //

21 Herrera admitted that during the trip he attended two dinners. At least one of the dinners
22 was at a place named the Grill (the Tribeca Grill) and someone from the De La Rosa firm
23 was present. Herrera claimed he did not know who paid the bill and thought that Ed
24 Sotelo must have paid for it. He said that Sotelo told him that it was "taken care of." He
25 said that they had a per diem rate that the city reimbursed them for meals, but was unable
26 to explain if the bill went over his per diem amount. He indicated that everything was
27 covered when he traveled.

28 //

1 Herrera admitted that he was supposed to go to the Theatre with the others in his group,
2 but his wife was ill so he did not attend. He admitted that he attended a second dinner in
3 New York with the group, but also did not have an explanation as to how the bill was
4 paid. Herrera said that he did not feel he had any obligation to report the meals on his
5 Form 700 and he did not report them.

6 //

7 //

8 Herrera admitted that on a separate occasion he attended the League of Cities conference
9 in San Francisco (in 2005). Ed Sotelo was also there. Ken Ortega was there but had to
10 leave because his wife went into labor. Herrera and Sotelo played golf at the Presidio golf
11 Course with Ed De La Rosa. He did not know who paid for the golf, but he did not. He
12 did not declare the golf on his Form 700.

13 //

14 Herrera said that he has had regular training on reporting and ethics. He is familiar with
15 the Form 700 and has the supplement at home. He admitted that he did not exercised
16 diligence when signing his Form 700 under penalty of perjury.

17 //

18 **Herrera Telephone Call with Sotelo**

19 //

20 On a brief break during the August 12, 2010 interview of Herrera, Agent Oehninger and I
21 left the interview room. The audio recording equipment in the interview room was still
22 operating and Herrera did not know that I was monitoring the interview room from
23 another location within the building. Herrera placed a phone call to Ed Sotelo. Sotelo
24 spoke loudly during the call on Herrera's cell phone and much of Sotelo's part of the
25 conversation was audible. All of Herrera's statements were clear. Sotelo advised Herrera
26 that the city attorney was involved and said that Herrera should have representation before
27 talking to the District Attorney. Herrera said that he wished he had known before coming
28 down and reminded Sotelo that he told him in advance that he was coming to the office.

Herrera then proceeded to briefly speak to Sotelo in Spanish, and then began to tell Sotelo that what areas he was being questioned about, specifically regarding golf and trips.

//

Shortly after Herrera and Sotelo began this conversation, FBI agent Oehninger returned to the interview room. Herrera pretended to tell the person on the other end of the phone to watch his dog. Herrera then started pretending that he had been talking to someone about the River Ridge training camp area and said that they were coordinating some soccer teams that were going to use the fields when the Cowboys were not using the area. Before concluding the interview, Herrera was specifically asked who he had spoken to during our brief recess. He admitted that it was in fact Ed Sotelo, but claimed that they were talking about the River Ridge fields. Agent Oehninger and I then finished the interview of Herrera.

//

//

//

VIII. City Attorney Alan Holmberg

//

Within minutes of Herrera talking to Sotelo and telling him what areas of the interview we were questioning him about, DA Investigator Jeff Barry received a telephone call from Steven Fischer, an assistant city attorney for the City of Oxnard. I was advised by Glen Kitzmann, Deputy Chief Investigator of Special Operations, that Kitzmann spoke with Mr. Fischer about city employees who were being interviewed by the DA. Fisher expressed concern that the witnesses should be represented by counsel and would not be honoring their previously scheduled appointments. He said that City Attorney Alan Holmberg was out of the office, but that he would be contacting him to determine how to proceed.

//

1 Thereafter, Kitzmann and DDA Karen Wold had a telephone conference call with
2 Holmberg and Fischer. Holmberg expressed concern that the FBI was involved in the
3 investigation. He wanted to know what the investigation involved and who the targets
4 were. Holmberg was advised that the subject matter of the investigation was confidential,
5 and did not involve a civil matter against the city. Holmberg stated that he did not want to
6 have city employees giving interviews to the DA without proper representation. He made
7 it clear that he believed the city should provide representation to witnesses and/or targets
8 in a criminal investigation to protect city employees. He said that he wanted to wait at
9 least another week before he believed that the employees should be interviewed.
10 Holmberg was advised that he was impeding a criminal investigation. He finally
11 acknowledged that the employees would each make their own decision regarding whether
12 or not to talk the DA, but he wanted to make sure that they understood that they have a
13 right to counsel.

14 //

15 //

16 //

17 **IX. Pre-text Phone Calls**

18 //

19 On August 12, 2010 at 7:48 p.m. Ken Ortega came into my office and made a recorded
20 telephone call to Edmund Sotelo on his cellular phone [REDACTED]. I monitored the call.
21 Ortega told Sotelo that he had been contacted by the District Attorney's Office and they
22 wanted to interview him about the New York trip and the San Francisco bond rating trip.
23 Ortega told Sotelo that he knew that John Kim paid for dinners and theater tickets. Sotelo
24 responded "You are going to have to tell them what you know, I don't know."

25 //

26 Also on August 12, 2010 at 7:54 p.m. Ken Ortega then made a monitored and recorded
27 telephone call from my office to Andres Herrera on his cell phone [REDACTED] and left
28 a message to call him. Herrera called Ortega's cell phone back within two minutes and

1 this call was monitored and recorded. Herrera told Ortega that he had come into the
2 District Attorney's Office earlier in the day. Herrera said that he told investigators that he
3 did attend Lakers' game trip and the trip to New York. Herrera told Ortega that with
4 regard to the dinners on the New York trip, he was told by Sotelo that the bill had been
5 covered. He told Ortega that he did not confirm who had paid the bills. Herrera then told
6 Ortega, "He's trying to throw me under the bus," referring to Sotelo.

7 //

8 //

9 **X. City Finance Officer James Cameron**

10 On August 12, 2010, Agent Oehninger and DA Investigator Barry interviewed James
11 Cameron and Investigator Barry told me the following; Cameron is employed as the Chief
12 Financial Officer of the City of Oxnard and was hired on April 14, 2008. He was hired by
13 Oxnard City Manager Sotelo. Cameron attends all city council meetings as part of his
14 required duties. Cameron oversees the Finance Department which is responsible for
15 payroll, general accounting, and budget functions. Cameron said he received an
16 introduction to the Form 700 document at the time he was hired. He said he has reviewed
17 these forms and the examples provided within them regarding certain reportable
18 situations. Cameron was not aware of any ongoing training regarding these documents.

19 //

20 Cameron attended a city function in New York in December of 2008 for which the city
21 received an award. He was not part of the work that led to the award. He stayed at a hotel
22 with other city officials in New York for a period of five (5) days. He was told the city
23 paid for the hotel for five (5) days because of a "discount" they received for staying that
24 amount of time. Cameron said this arrangement was already worked out in advance
25 because he filled in for the Mayor who could not attend at the last minute. Cameron said
26 his wife attended this New York event with him, and he paid for her flight. Other city
27 personnel in attendance were City Manager Sotelo, Mayor Pro Tem Herrera, and Public
28 Works Director Ortega. All spouses of the other city officials also attended. Cameron said

1 that John Kim from De la Rosa paid for all city officials and their spouses to attend a play.
2 He was not sure the name of the play. John Kim also paid for one dinner for city officials
3 and their spouses and one lunch for city officials and their spouses. Cameron said he
4 reported \$75 on his Form 700 for the tickets to the play he received. He said he did not
5 report the ticket his wife received because he thought he did not have to. He said he did
6 not report the meals because he did not consider them as "gifts."

7 //

8 //

9 Cameron said that he attended a Dodgers Game with Ortega, an unknown Los Angeles
10 City Official, and John Kim in the summer of 2008. Ortega drove the four of them to the
11 game. Cameron was not aware of the exact date, but he remembered the Dodgers won the
12 game. Cameron said the seats included "free food" and were located behind the Dodger
13 dugout. Cameron said he reported this as a gift of \$300 on his Form 700. He said he
14 called John Kim when it was time for him to complete the form to find out exactly how
15 much the ticket he received was worth. Kim told him it was worth \$300.

16 //

17 Cameron said it was ultimately his decision through consultation with the City Manager to
18 use the De la Rosa firm to negotiate and purchase bonds on behalf of the City of Oxnard.
19 Cameron said he was unsure of the annual profit received by De la Rosa from the
20 relationship it had with the City of Oxnard because he said the figure would be complex to
21 determine due to the fact that De la Rosa sells some bonds right away and holds on to
22 others that it receives from the City of Oxnard to possibly sell at a later date. He estimated
23 that De la Rosa makes between \$100,000 and \$200,000 per year through business it does
24 with the City of Oxnard.

25 //

26 Cameron attended a two-day city event in San Francisco which he described as a bond
27 rating meeting. He said that John Kim paid for a nice dinner for those that attended. He
28 said the dinner was at the Cliff House restaurant.

1 //

2 Cameron was asked by the City Manager Sotelo to send out inquiries to firms that had
3 organized the gala party for the Desalt Plant. He said he attended this event and thought it
4 was an expensive one because there was catered food. He was told by the City Manager
5 to send out letters to all of the firms who they believed organized the event. The letters
6 asked the firms if they gave donations to the City of Oxnard. Only three or four of the
7 seven firms responded (which he described as half). Of those that responded, none of
8 them indicated they had donated money to the City of Oxnard. Cameron said he was
9 confused by this, but thought that an explanation could be that the firms paid the vendors
10 directly for the event without involving the City of Oxnard.

11 //

12 Cameron also said he was aware of an issue with "change orders" involving the building
13 of the Desalt Plant. He said these occurred prior to his employment. In looking into the
14 matter, Cameron said there seemed to be a discrepancy between the rules in the budget
15 document for the project and the rules in the budget manual used by the city. Cameron
16 said depending on which manual one would read, they could view it as being acceptable
17 or not acceptable for a manager to approve the change orders for the project. He was
18 aware that Jose Moreno had been fired by the City Manager Sotelo.

19 //

20 When asked if Cameron saw a conflict of interest based on the fact that he was
21 responsible for selecting and recommending De la Rosa and the fact that he had
22 personally accepted and not reported all gifts from the company, Cameron said he did not
23 see this as a conflict, although he agreed that other people could perceive a conflict.

24 //

25 On August 13, 2010 at 10:00 a.m., I had a discussion with Deputy Chief Investigator Glen
26 Kitzmann. He had returned from Oxnard City Hall after meeting with Assistant City
27 Manager Karen Burnham, Human Resources Director Michelle Tellez and Executive
28 Assistant Catherine Kinney. Kinney provided Kitzmann with two bankers boxes

1 containing documents, one containing city council minutes that filled approximately 1/2
2 box and the other box contained a few documents from ARRA Funding, DeLaRosa and
3 company and JVW Communications. Burnham originally told Kitzmann yesterday that
4 she would provide two or three banker's boxes. Burnham told me on August 11, 2010
5 that she would be providing documents to me that I would find "interesting." I have had
6 an opportunity to briefly review the documents provided today by Burnham and the
7 majority are insignificant. It does not appear that the majority of documents requested
8 have been produced.

9
10 Burnham claimed that Ortega's computer had been "scrubbed" and that they believe the
11 majority of the documents we are seeking were on that computer. She claimed that they
12 are currently having their IT people try to recover the documents.

13
14
15 **Request for Sealing of Search Warrant**

16 //

17 This search warrant is requested as part of an ongoing investigation regarding Perjury and
18 Misappropriation of Public Funds and potential Conflicts of Interest which are felonious
19 violations of California law. It is expected that the investigation will continue with additional
20 surveillance, intelligence gathering, and search warrants forthcoming. Therefore, it is
21 important that this search warrant be sealed to prevent its release to the public as a judicial
22 record, which is required by Section 1534 of the California Penal Code. If the existence of
23 this search warrant is made public, it could give the suspect(s) of this investigation an
24 opportunity to destroy evidence, hamper the investigation, notify confederates, or flee
25 from prosecution. It is likely that the service of this warrant may produce evidence of
26 criminal activities involving suspect(s) now yet known and that the revelation of the facts
27 set forth in this affidavit may cause or motivate these as yet unknown suspect(s) to flee or
28 destroy evidence. Without sealing the entire search warrant, this affidavit will become a

1 matter of public record within 10 days. Sealing is justified even against discovery by the
2 suspect(s) based on the governmental privilege allowing for the protection of official
3 information pursuant to Evidence Code sections 1040-1042.

4
5 **Southern California Regional Hi-Tech Task Force**
6

7 The Southern California Regional Hi-Tech Task Force (SCHTTF) is a state funded law
8 enforcement group formed to identify and investigate high technology crimes. The task
9 force includes investigator/examiners from local, state and federal agencies, who receive
10 specialized training in the recovery of digital evidence. Some members of the task force
11 are civilians and not considered "peace officers" for the purposes of serving a state-
12 issued search warrant in California. They are however, trained by sworn peace officers
13 and they will be working under the supervision of sworn peace officers executing this
14 search warrant. As provided for under California Penal Code section 1530, I will need
15 the assistance of fellow members of the task force to serve this warrant. I am requesting
16 that the court authorize members of the task force to accompany the peace officers
17 executing this warrant for the purpose of assisting in the service and execution of this
18 warrant.

19
20 I understand it is a common and accepted practice to create exact duplicate images of
21 computer hard drives on scene in cases where the digital evidence itself is not contraband
22 and where the seizure will have an adverse effect on lawful business interests. Member of
23 the SCHTTF will first determine the feasibility of an on-scene acquisition of evidence. If
24 a computer is mission critical to the business and can be safely imaged at the location,
25 SCHTTF members will complete the acquisition at said location. There are many factors
26 that could make this procedure impractical and/or ill-advised. These factors included
27 certain types of hardware, hard drives, software, as well as storage devices. If any of
28 these factors are present, in the sole discretion of the computer forensics examiners, it will

1 be necessary to remove the affected computer systems from the scene and image them
2 offsite at a computer forensics facility.

3 //

4 In my training and experience, I know that the forensic examination of a computer and
5 computer storage material is a time consuming and laborious task requiring specialized
6 tools including tools and programs that enable a forensic examiner to locate items that a
7 computer user believes have been deleted. For this reason, as well as reasons mentioned
8 above, the computer and computer storage media must be searched offsite using
9 specialized tools.

10 //

11 With relation to other types of media or devices that are not mission critical, those items
12 will be seized and imaged in a controlled laboratory environment, and returned upon
13 completion. I understand often times acquisition of such data or devices can take hours or
14 days to complete and may require specialized equipment to complete the process.

15 //

16 I request authorization to seize computer(s) and computer data; to read information
17 stored and contained on any seized computer(s) and computer data and copy such data
18 for evidentiary purposes. The search shall include the inspection of any computer based
19 storage media, whether locked or unlocked, contained at the location described in this
20 affidavit.

21 //

22 In order to preserve an accurate record, I request permission to videotape and/or
23 photograph the execution of this search warrant. I expect to examine computer(s) at the
24 scene of the search. Those computers may be operating when I arrive at the premises.
25 The images on the screens of the computers are transient (they disappear when the
26 computer is turned off). I need to be able to videotape any such images because they
27 may be evidence (e.g., incriminating documents being written by the user when the
28

1 search warrant is executed). The videotape may be useful in documenting what was
2 done to the computers. Photography of the location and persons present at the scene is
3 also often helpful in showing possession of the premises and evidence of association of
4 the parties.

5 **Request to Allow Federal Agents to Assist with Search**

6 //

7 I also request that the court authorize agents from the Federal Bureau of Investigation to
8 assist with the execution of this search warrant. This case is a joint investigation with the
9 Ventura County District Attorney's Office and the Federal Bureau of Investigation. I
10 believe the funds that were allegedly misappropriated for the Desalt Plant/Great Project
11 grand opening ceremony may be in part federal funds designated for other programs or
12 projects. I have been advised by Special Agent Ted A. Oehninger that he believes
13 approximately \$20 million dollars in Federal funds was slated for phase one of the
14 GREAT project. Oehninger has probable cause to believe that the acts may constitute the
15 following federal violations; **Hobbs Act [Title 18, USC, §1951]**

- 16
- 17 a) Whoever, in any way or degree, obstructs, delays or affects interstate commerce,
18 b) by obtaining property from another, with consent, induced by wrongful use of
19 actual or threatened force, violence, fear; or
20 c) under color of official right, which includes misuse, or misuse under reasonable
21 apparent authority, of one's office to induce payments not due the person or
22 office; or
23 d) attempts or conspires to do so;
24 e) shall be fined or imprisoned not more than 20 years, or both.

25

26 **Conspiracy [Title 18, USC, §371]**

- 27 a) If two or more persons;
28 b) conspire either to commit any offense against the United States; or,

- 1 c) defraud the United States or any agency thereof in any manner or for any purpose;
2 and
3 d) one or more of such persons do any act to effect the object of the conspiracy;
4 e) each person shall be fined or imprisoned not more than five years, or both,
5 however;
6 f) if the object offense is a misdemeanor, then each person shall not be imprisoned
7 for more than one year.
8

9
10 **Aiding and Abetting [Title 18, USC, §2]**

- 11 a) Whoever commits an offense against the United States; or,
12 b) aids, abets, counsels, commands, induces or procures its commission; or,
13 c) willfully causes an act to be done, which if directly performed by him/her or
14 another would be an offense against the United States;
15 d) is punishable as a principal.
16

17 As such, I request that agents with the Federal Bureau of Investigation be allowed to
18 participate and assist in the execution of this search warrant as they have specific expertise
19 that will assist with this investigation and search warrant service.
20

21 //

22 //

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Computer Search and Digital Media

I believe that the City of Oxnard uses e-mail, networks, and computers to effectively conduct city business. I believe e-mail messages, networks, and computers located within the places to be searched will contain evidence regarding the crimes described herein. Therefore, I am requesting trained computer forensic investigators from the Southern California High Tech Taskforce search and seize the following items, images, photographs, records, or evidence including: Any of the aforementioned evidence described in the Search Warrant Order whether in documentary form or contained on electronic storage devices capable of storing electronic data, including, but not limited to, computers, servers, laptops, cellular phones, (including Blackberries and I-Phones), Personal Data Assistants (PDA's), computer systems including central processing units; internal and peripheral storage devices such as fixed disks, external hard disks, floppy disk drives and diskettes, thumb drives, tape drives and tapes, optical storage devices or other memory storage devices; peripheral input/output devices such as keyboards, monitors, printers, mouses, joysticks, light pens optical readers, writing pads, devices such as modems, software to run programs, printers and manuals for the operation of the Computer(s). This also includes all writings and documents which tend to establish the identity of the person(s) in control of the computer and computer equipment and this is to include all computer data receipts, registration forms, canceled checks, warranty documents, purchase agreements, lease agreements, any computer logs, sign in sheets, notes, passwords or access codes.

CONCLUSION

Based on my training and experience and the information obtained during the course of this investigation, I believe City Finance Director James Cameron attended the Bond Buyers awards banquet in New York on city business, but underreported the gifts

1 provided by the De La Rosa Company for dinners and theater tickets and falsified his
2 Form 700, which he signed under penalty of perjury, a felony violation of Penal Code
3 section 118. I further believe that Cameron attended a function in San Francisco, but
4 failed to report a dinner that was provided by the De La Rosa Company at the Cliff House
5 on his Form 700, which he signed under penalty of perjury, a felony in violation of Penal
6 Code section 118. I also have probable cause to believe that Cameron accepted gifts from
7 the De La Rosa Company in excess of \$420 in a given calendar year, and then entered into
8 contracts with them, a felony violation of G.C. 1090.

9
10 I further believe City Manager Edmund Sotelo failed to report a golf outing and an
11 expensive dinner provided by the De La Rosa Company on two different trips to San
12 Francisco. In addition, he failed to report hotel rooms, dinners and theater tickets for he
13 and his family provided by the De La Rosa Company. He failed to report these gifts on
14 his Form 700's, which he signed under penalty of perjury, a felony violation of Penal
15 Code section 118. I also have probable cause to believe that Sotelo accepted gifts from
16 the De La Rosa Company in excess of \$420 in a given calendar year and entered into
17 contracts with them, a felony violation of Penal Code section 1090. I also have probable
18 cause believe that Sotelo aided and abetted the misuse of public funds and/or aided and
19 abetted in the use of funds for a purpose not authorized by law with regard to the Desalter
20 function, a felony violation of Penal Code section 424

21
22 Moreover, I believe Mayor Pro Tem Andres Herrera failed to report a golf outing in San
23 Francisco hosted by the De La Rosa Company, the New York bond buyers trip including a
24 hotel room, expensive dinners and theater tickets for he and wife. He received the
25 limousine trip to the Lakers basketball game and dinner hosted by the Kennedy/Jenks
26 Company. He failed to report these gifts on his Form 700's, which he signed under
27 penalty of perjury, a felony violation of Penal Code section 118.

1 Furthermore, I believe former Public Works Director Ken Ortega failed to report the
2 dinner in San Francisco hosted by the De La Rosa Company, the limousine trip, tickets to
3 a Lakers game and dinner hosted by the Kennedy/Jenks Group. He failed to report these
4 gifts on his Form 700, which he signed under the penalty of perjury, a felony violation of
5 Penal Code section 118.

6 //

7 Therefore, based on my training and experience and the information contained in this
8 affidavit, I have formed the opinion that a search of Oxnard City Hall will result in the
9 seizure of evidence tending to show that Public Works Director Ken Ortega, City of
10 Oxnard Manager Ed Sotelo, Mayor Pro Tem Andres Herrera, Chief Financial Officer
11 James Cameron and Public Works Project Manager Juan Moreno and other unidentified
12 suspects have committed a felony(ies).

13
14 In my opinion there is probable cause to believe that grounds for the issuance of a search
15 warrant exists as set forth in California Penal Code § 1524 based on the aforementioned
16 facts and circumstances at: (1) Oxnard City Hall, 300 West 3rd Street, Oxnard,
17 California; and (2) City of Oxnard Civic Center, 305, West 3rd Street, Oxnard,
18 California.

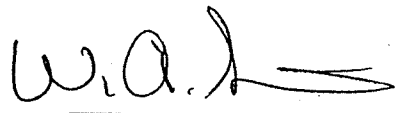
19
20 This investigation into allegations conflict of interests and misappropriation of public
21 funds is continuing. Disclosure of the contents of the affidavit to the suspect and/or any
22 person listed in the affidavit would compromise surveillance efforts, jeopardize officer
23 safety, and would frustrate the continuing investigation of this case. Furthermore,
24 additional search warrants, arrests and seizures of contraband are contemplated in this
25 investigation. If the search warrant affidavit is made public, it will impair further related
26 investigations.
27
28

1 I believe the necessity for preserving the confidentiality of the information contained in the
2 affidavit outweighs the necessity for public disclosure. Therefore, I request, pursuant to
3 Evidence Code section 1040, that the search warrant affidavit be sealed pending further
4 order from this court.
5

6 I declare under penalty of perjury that the foregoing is true and correct to the best
7 of my knowledge.
8

9 //

10 Dated: August 13, 2010



11 Wayne Simmons

12 Senior Investigator
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